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105TH CONGRESS
2D SESSION

H. R. 4627

To provide for substantial reductions in the price of prescription drugs for Medicare beneficiaries.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 25, 1998

Mr. ALLEN (for himself, Mr. TURNER, Mr. TIERNEY, Mr. WAXMAN, Mr. BERRY, Mr. BARRETT of Wisconsin, Mr. BROWN of Ohio, Mr. STUPAK, Mr. WEYGAND, Mr. STARK, Ms. KILPATRICK, Mr. KUCINICH, Mr. SANDERS, Mr. CUMMINGS, Mr. SERRANO, Mr. THOMPSON, Mr. POMEROY, Mr. JOHNSON of Wisconsin, Mr. FRANK of Massachusetts, Mr. SANDLIN, Ms. STABENOW, Mr. YATES, Mr. BORSKI, Mr. FROST, Mr. DAVIS of Illinois, Mrs. THURMAN, Mr. KIND, and Mr. ABERCROMBIE) introduced the following bill; which was referred to the Committee on Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide for substantial reductions in the price of prescription drugs for Medicare beneficiaries.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Prescription Drug
5 Fairness for Seniors Act of 1998".

1 SEC. 2. FINDINGS AND PURPOSES.

2 (a) FINDINGS.—The Congress finds the following:

3 (1) Manufacturers of prescription drugs engage
4 in price discrimination practices that compel many
5 older Americans to pay substantially more for pre-
6 scription drugs than the drug manufacturers' most
7 favored customers, such as health insurers, health
8 maintenance organizations, and the Federal Govern-
9 ment.

10 (2) On average, older Americans who buy their
11 own prescription drugs pay twice as much for pre-
12 scription drugs as the drug manufacturers' most fa-
13 vored customers. In some cases, older Americans pay
14 over 15 times more for prescription drugs than the
15 most favored customers.

16 (3) The discriminatory pricing by major drug
17 manufacturers sustains their annual profits of
18 \$20,000,000,000, but causes financial hardship and
19 impairs the health and well-being of millions of older
20 Americans. More than one in eight older Americans
21 are forced to choose between buying their food and
22 buying their medicines.

23 (4) Most federally funded health care programs,
24 including Medicaid, the Veterans Health Administra-
25 tion, the Public Health Service, and the Indian
26 Health Service, obtain prescription drugs for their

1 beneficiaries at low prices. Medicare beneficiaries are
2 denied this benefit and cannot obtain their prescrip-
3 tion drugs at the favorable prices available to other
4 federally funded health care programs.

5 (5) It has been estimated that implementation
6 of the policy set forth in this Act will reduce pre-
7 scription prices for Medicare beneficiaries by more
8 than 40 percent.

9 (6) In addition to substantially lowering health
10 care costs for older Americans, implementation of
11 the policy set forth in this Act will significantly im-
12 prove the health and well-being of older Americans
13 and lower the costs to the Federal taxpayer of the
14 Medicare program.

15 (b) PURPOSE.—The purpose of this Act is to protect
16 Medicare beneficiaries from discriminatory pricing by drug
17 manufacturers and to make prescription drugs available
18 to Medicare beneficiaries at substantially reduced prices,
19 by allowing pharmacies to purchase drugs for Medicare
20 beneficiaries at the substantially reduced price available
21 under the Federal Supply Schedule.

22 **SEC. 3. MEDICARE BENEFICIARY DRUG BENEFIT CARD.**

23 The Secretary of Health and Human Services shall
24 furnish to each Medicare beneficiary a drug benefit card
25 that enables the beneficiary to purchase covered prescrip-

1 tion drugs from participating pharmacies at reduced
2 prices pursuant to section 4.

3 **SEC. 4. PARTICIPATING PHARMACIES.**

4 (a) **AGREEMENTS TO PARTICIPATE.**—Any qualified
5 pharmacy may enter into an agreement with the Secretary
6 that enables the pharmacy to sell covered outpatient drugs
7 to holders of Medicare drug benefit cards at a reduced
8 price, by authorizing the pharmacy to operate as a partici-
9 pating pharmacy under this Act.

10 (b) **RIGHT OF PARTICIPATING PHARMACIES TO OB-**
11 **TAIN DRUGS.**—An agreement under this section shall enti-
12 tle the participating pharmacy to purchase any covered
13 outpatient drug that is listed on the Federal Supply
14 Schedule of the General Services Administration at the
15 participating pharmacy discount price for that drug deter-
16 mined under subsection (d).

17 (c) **QUANTITY OF DRUGS PURCHASED.**—An agree-
18 ment under this section shall permit the participating
19 pharmacy to purchase under this Act as much of a covered
20 outpatient drug as is sold by the pharmacy to holders of
21 Medicare drug benefit cards.

22 (d) **PARTICIPATING PHARMACY DISCOUNT PRICE.**—

23 (1) **IN GENERAL.**—The Secretary shall deter-
24 mine a participating pharmacy discount price for
25 each covered outpatient drug.

1 (2) DETERMINATION.—The participating phar-
2 macy discount price for a covered outpatient drug
3 shall be determined by adding—

4 (A) the price at which the drug is available
5 to Federal agencies from the Federal Supply
6 Schedule under section 8126 of title 38, United
7 States Code; plus

8 (B) an amount that reflects the adminis-
9 trative costs incurred by the Secretary in ad-
10 ministering this Act.

11 **SEC. 5. ADMINISTRATION.**

12 (a) IN GENERAL.—The Secretary shall administer
13 this Act in a manner that uses existing methods of obtain-
14 ing and distributing drugs to the maximum extent pos-
15 sible, consistent with efficiency and cost effectiveness.

16 (b) REGULATIONS.—The Secretary shall issue such
17 regulations as may be necessary to implement this Act.

18 **SEC. 6. REPORTS TO CONGRESS REGARDING EFFECTIVE-**
19 **NESS OF ACT.**

20 (a) IN GENERAL.—Not later than 2 years after the
21 date of the enactment of this Act, and annually thereafter,
22 the Secretary shall report to the Congress regarding the
23 effectiveness of this Act in—

24 (1) protecting Medicare beneficiaries from dis-
25 criminatory pricing by drug manufacturers; and

1 (2) making prescription drugs available to
2 Medicare beneficiaries at substantially reduced
3 prices.

4 (b) CONSULTATION.—In preparing such reports, the
5 Secretary shall consult with public health experts, affected
6 industries, organizations representing consumers and
7 older Americans, and other interested persons.

8 (c) RECOMMENDATIONS.—The Secretary shall in-
9 clude in such reports any recommendations they consider
10 appropriate for changes in this Act to further reduce the
11 cost of covered outpatient drugs to Medicare beneficiaries.

12 **SEC. 7. DEFINITIONS.**

13 In this Act:

14 (1) COVERED OUTPATIENT DRUG.—The term
15 “covered outpatient drug” has the meaning given
16 that term in section 1927(k)(2) of the Social Secu-
17 rity Act (42 U.S.C. 1396r-8(k)(2)).

18 (2) MEDICARE BENEFICIARY.—The term
19 “Medicare beneficiary” means an individual entitled
20 to benefits under part A of title XVIII of the Social
21 Security Act or enrolled under part B of such title,
22 or both.

23 (3) MEDICARE DRUG BENEFIT CARD.—The
24 term “Medicare drug benefit card” means such a
25 card issued under section 3.

1 (4) SECRETARY.—The term “Secretary” means
2 the Secretary of Health and Human Services.

3 **SEC. 8. EFFECTIVE DATE.**

4 The Secretary shall implement this Act as expedi-
5 tiously as practicable and in a manner consistent with the
6 obligations of the United States.

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